

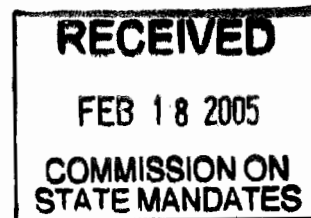


J. TYLER McCAULEY
AUDITOR-CONTROLLER

**COUNTY OF LOS ANGELES
DEPARTMENT OF AUDITOR-CONTROLLER**

KENNETH HAHN HALL OF ADMINISTRATION
500 WEST TEMPLE STREET, ROOM 525
LOS ANGELES, CALIFORNIA 90012-2766
PHONE: (213) 974-8301 FAX: (213) 626-5427

February 18, 2005



Ms. Paula Higashi
Executive Director
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, California 95814

Dear Ms. Higashi:

**Review of Commission Staff Analysis – Reconsideration of:
Handicapped and Disabled Students Program [04-RL-4282-10]**

In regard to our review of the subject analysis, we submit a declaration prepared by Paul L. McIver, a District Chief with the Los Angeles County Department of Mental Health and a copy of "DMH Letter NO.: 01-01", incorporated by Mr. McIver in his declaration.

Leonard Kaye of my staff is available at (213) 974-8564 to answer questions you may have concerning this submission.

Very truly yours,

John Naimo FOR
J. Tyler McCauley
Auditor-Controller

JTM:JN:LK
Enclosures

COUNTY OF LOS ANGELES

MARVIN J. SOUTHARD, D.S.W.
Director

SUSAN KERR
Chief Deputy Director

RODERICK SHANER, M.D.
Medical Director



BOARD OF SUPERVISORS

GLORIA MOLINA
YVONNE B. BURKE
ZEV YAROSLAVSKY
DON KNABE
MICHAEL D. ANTONOVICH

DEPARTMENT OF MENTAL HEALTH<http://dmh.lacounty.info>

550 SOUTH VERMONT AVENUE, LOS ANGELES, CALIFORNIA 90020

Reply To: CHILDREN'S SYSTEM OF CARE
Countywide Children Programs
Tel: (213) 738-3940, Fax: (213) 738-6521

**Declaration of Paul L. McIver
Los Angeles County
Review of Commission's Staff Analysis Issued January 20, 2005
Reconsideration of the Handicapped & Disabled Students Program**

Paul L. McIver makes the following declaration and statement under oath:

I, Paul L. McIver, District Chief, Countywide Programs, Children's System of Care, Department of Mental Health, County of Los Angeles, am responsible for developing and implementing State mandated service programs including State-mandated programs to provide "mental health services for pupils with disabilities" pursuant to provisions of Chapter 26.5 of the Government Code, Title 2, Division 9 of the California Code of Regulations.

I declare that I have reviewed Commission's Staff analysis issued on January 20, 2005 regarding Commission's reconsideration of the Handicapped and Disabled Student Reimbursement Program.

I declare that it is my information and belief that the itemization of mental health services found in the California Code of Regulations, Title 2, Section 60020, implementing Chapter 26.5 of the Government Code is not included under the "Conclusion Section" of Commission's staff analysis which specifies reimbursable activities.

I declare that it is my information and belief that implementation of Chapter 26.5 requires counties to provide and obtain reimbursement for the full range of mental health services as that term is used, measured and defined in the California Code of Regulations Title 2, Section 60020(i):

"Mental health services" means mental health assessments and the following services when delineated on an IEP in accordance with Section 7572(d) of the Government Code: psychotherapy as defined

in Section 2903 of the Business and Professions Code provided to the pupil individually or in a group, collateral services, medication monitoring, intensive day treatment, day rehabilitation, and case management. These services shall be provided directly or by contract at the discretion of the community mental health service of the county of origin."

enriching lives & communities

Declaration of Paul L. McIver
Page 2

I declare that it is my information and belief that Commissions' list of reimbursable activities should be expanded to conform with the list of mental health services required under Title 2, Section 60020(i):

1. Mental health assessments
2. Psychotherapy
 - a. Individual
 - b. Group
3. Collateral services
4. Medication monitoring
5. Intensive day treatment
6. Day rehabilitation
7. Case management

I declare that it is my information and belief that "Rehabilitation" as defined in Title 9, California Code of Regulations, Section 1810.243 is a "service activity which includes assistance in improving, maintaining, or restoring a beneficiary's or group of beneficiaries' functional skills, daily living skills, social and leisure skills, grooming and personal hygiene skills, meal preparation skills, and support resources and/or medication education" and should be included in the array of mental health services to disabled students in the Chapter 26.5 program.

I declare that it is my information and belief that the [above] list of reimbursable activities should be addressed, included and explicitly described in the parameters and guidelines following the Commission's adoption of a Statement of Decision which provides for reimbursement for mental health services required under the California Code of Regulations, Title 2, Section 60020(i).

I declare that it is my information and belief that the above descriptions of mandated duties and reimbursable costs under the subject "reconsidered" legislation are reasonable, proper, and fairly stated.

I declare that it is my information and belief that reimbursable costs under the subject "reconsidered" legislation are well in excess of \$1,000 per annum for the County of Los Angeles, the minimum cost that must be incurred to file a claim in accordance with Government Code Section 17564(a).

Specifically, I declare that I am informed and believe that the County's State mandated duties and resulting costs in implementing the "reconsidered" legislation require the County to provide new State-mandated services and thus incur costs which are, in my opinion, reimbursable "costs mandated by the State", as defined in Government Code section 17514:

Declaration of Paul L. McIver

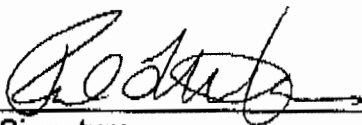
Page 3

" 'Costs mandated by the State' means any increased costs which a local agency or school district is required to incur after July 1, 1980, as a result of any statute enacted on or after January 1, 1975, or any executive order implementing any statute enacted on or after January 1, 1975, which mandates a new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution."

I am personally conversant with the foregoing facts and if required, I could and would testify to the statements made herein.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct of my own knowledge, except as to matters, which are stated as information and belief, and as to those matters I believe them to be true.

February 17, 2005
Date and Place Los Angeles, CA


Signature



1600 9th Street, Sacramento, CA 95814
(916) 654-2309

May 4, 2001

DMH LETTER NO.: 01-01

TO: LOCAL MENTAL HEALTH DIRECTORS
LOCAL MENTAL HEALTH PROGRAM CHIEFS
LOCAL MENTAL HEALTH ADMINISTRATORS
COUNTY ADMINISTRATIVE OFFICERS
CHAIRPERSONS, LOCAL MENTAL HEALTH BOARDS

SUBJECT: ONE-TO-ONE MENTAL HEALTH SERVICES

The Department of Mental Health (DMH) is providing the following clarification regarding mental health services provided by Mental Health Plans (MHPs) as a part of the Medi-Cal Specialty Mental Health Services Consolidation program.

Title 9, California Code of Regulations (CCR), Section 1810.277 defines mental health services as follows:

- "Mental Health Services" mean those individual or group therapies and interventions that are designed to provide reduction of mental disability and improvement or maintenance of functioning consistent with the goals of learning, development, independent living and enhanced self-sufficiency and that are not provided as a component of adult residential services, crisis residential treatment services, crisis intervention, crisis stabilization, day rehabilitation, or day treatment intensive. Service activities may include but are not limited to assessment, plan development, therapy, rehabilitation and collateral.

This definition includes rehabilitation as a possible service activity. Title 9, CCR, Section 1810.243 defines rehabilitation as follows:

- "Rehabilitation" means a service activity which includes assistance in improving, maintaining, or restoring a beneficiary's or group of beneficiaries' functional skills, daily living skills, social and leisure skills, grooming and personal hygiene skills, meal preparation skills, and support resources; and/or medication education.

DMH Letter No. 01-01
Page 2

Rehabilitation as a component of mental health services may include individual one-to-one services in home, community and other settings, provided all other requirements of the Medi-Cal Specialty Mental Health Services Consolidation program are met. There is no cap or limit on the number of hours per day or the number of days per week that this service activity may be provided, nor is there an annual or lifetime cap or limit. Specific requirements that should be considered in determining whether or not rehabilitation should be provided to a beneficiary include medical necessity criteria at Title 9, CCR, Sections 1830.205 and 1830.210; services excluded from coverage by MHPs at Title 9, CCR, Section 1810.355; and requirements for claiming Federal Financial Participation (FFP) at Title 9, CCR, Sections 1840.312, 1840.314, and 1840.316. Copies of these regulations are enclosed.

The regulations governing medical necessity criteria provide a listing of the mental disorders covered by the MHPs, criteria addressing the severity of the impairments the disorder causes, and criteria for the level of success that is expected from any proposed intervention. These medical necessity criteria require that there must be a direct link from the beneficiary's diagnosis to the identified impairment to the intervention being considered:

- The beneficiary must be diagnosed with a covered mental disorder.
- The beneficiary must have an impairment that is directly related to the covered mental disorder.
- The focus of the intervention must be the identified impairment.

The intervention must also be a specialty mental health service. Excluded services covered by the Medi-Cal program are identified in Title 9, CCR, Section 1810.355. (Beneficiaries in need of excluded services should be referred to appropriate physical health care providers.) Although the distinction between specialty mental health services and excluded services is obvious in most cases, the distinctions between rehabilitation as a component of mental health services and excluded services such as personal care services are sometimes difficult to make. Rehabilitation and personal care services both assist clients to live independently. Rehabilitation, however, does this by activities that are designed to enable the client to overcome the limitations due to the mental disorder and teach the client to perform these activities for themselves. Personal care services do this by performing activities for the clients that the clients are unable to do for themselves. For example:

- Rehabilitation might include explaining and ensuring the client understood the importance of taking prescribed medications and working with a client to develop a system that would help the client to take medications on time.

DMH Letter No. 01-01
Page 3

Personal care services might include reminding the client to take self-administered prescribed and/or over the counter medications each time the medications are to be taken.

- Rehabilitation might include teaching a client to shop, prepare, and eat meals and reviewing the effectiveness of the instruction at periodic intervals. Personal care services might include food shopping, meal preparation and feeding the client.
- Rehabilitation might include planning social activities with the client consistent with the client's socialization goals and encouraging/monitoring the client's participation in these activities. There is no comparable personal care services, since no one can perform social activities for another.

All minutes submitted as a claim for Medi-Cal FFP for one-to-one rehabilitation provided as a mental health service must involve active treatment of the beneficiary. MHPs are not required to cover non-treatment time. MHPs may not claim FFP for non-treatment time if they chose to remain with the beneficiary during non-treatment time. (Nothing in this letter is intended to change existing standards for claiming FFP for documentation or travel time.) Beneficiaries receiving mental health services who have intermittent need for rehabilitation may be accommodated with scheduled home, community or office visits that meet these needs or may be assigned to a person who is on call to deliver these services. Please note that this restriction does not apply to therapeutic behavioral services, which are addressed in DMH Letter Nos. 99-03 and 99-04.

If you have questions or need additional information, please contact your liaison in the Technical Assistance and Training Unit.

Sincerely,

Original signed by

STEPHEN W. MAYBERG, Ph.D.
Director

Enclosure

cc: California Mental Health Planning Council
Chief, Technical Assistance and Training



J. TYLER McCAULEY
AUDITOR-CONTROLLER

COUNTY OF LOS ANGELES DEPARTMENT OF AUDITOR-CONTROLLER

KENNETH HAHN HALL OF ADMINISTRATION
500 WEST TEMPLE STREET, ROOM 525
LOS ANGELES, CALIFORNIA 90012-2766
PHONE: (213) 974-8301 FAX: (213) 626-5427

RECEIVED

FEB 18 2005

**COMMISSION ON
STATE MANDATES**

DECLARATION OF SERVICE

STATE OF CALIFORNIA, County of Los Angeles:

Hasmik Yaghobyan states: I am and at all times herein mentioned have been a citizen of the United States and a resident of the County of Los Angeles, over the age of eighteen years and not a party to nor interested in the within action; that my business address is 603 Kenneth Hahn Hall of Administration, City of Los Angeles, County of Los Angeles, State of California;

That on the 18th day of February 2005, I served the attached:

Documents: Review of Commission Staff Analysis – Reconsideration of: Handicapped and Disabled Students Program [04-RL-4282-10], including a 1 page letter of J. Tyler McCauley dated 2/18/05, a 3 page Declaration of Paul McIver, and a 3 page attachment, now pending before the Commission on State Mandates.

upon The Commission on State Mandates, the original document plus a copy per the instructions provided in Case No: 04-RL-4282-10:

- ☐ by transmitting via facsimile the document(s) listed above to the fax number(s) set forth below on this date. Commission on State Mandates FAX as well as mail of originals.
- ☐ by placing ☐ true copies ☐ original thereof enclosed in a sealed envelope addressed as stated on the attached mailing list.
- ☒ by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at Los Angeles, California, addressed as set forth below.
- ☐ by personally delivering the document(s) listed above to the person(s) as set forth below at the indicated address.

PLEASE SEE ATTACHED MAILING LIST

That I am readily familiar with the business practice of the Los Angeles County for collection and processing of correspondence for mailing with the United States Postal Service; and that the correspondence would be deposited within the United States Postal Service that same day in the ordinary course of business. Said service was made at a place where there is delivery service by the United States mail and that there is a regular communication by mail between the place of mailing and the place so addressed.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 18th day of February, 2005, at Los Angeles, California.

Original mailed.

Post-It® Fax Note	7671	Date	2/18/05	# of pages	8
To	Paula Higashi	From	Hasmik Yagheyan		
Co./Dept.		Co.			
Phone #		Phone #	213-974-8564		
Fax #	916-445-0978	Fax #			

[Signature]
Hasmik Yagheyan